

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENG BOCK CHIA, RUI GUI WU, YUE
MING LIN, GRACE WU, CINDY LIN, XIN
QIANG YU, GUI XIANG DONG, CHIN
KOK HING, WAI HO NG and JIANWEI XU,

Plaintiffs,
-against-

520 ASIAN RESTAURANT CORP. d/b/a
CHEF YU, 5127 RESTAURANT CORP.
d/b/a GINGER'S, TUNG SHENG YEH,
STEVEN C.J. TANG, JANE DOE aka
"WINNIE," TEO SU JIN, BENNY
CHEONG, and/or other persons or entities
affiliated with or controlled by 520 ASIAN
RESTAURANT CORP. d/b/a CHEF YU
and/or 5127 RESTAURANT CORP. d/b/a
GINGER'S and/or TUNG SHENG YEH,
STEVEN C.J. TANG, JANE DOE aka
"WINNIE," TEO SU JIN, and/or BENNY
CHEONG, individually,

Defendants.

Docket No. 17-cv-5885

Civil Action

**DECLARATION OF JOHN T. HERBERT,
ESQ., IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES AND COSTS**

JOHN T. HERBERT, an attorney duly admitted to practice pro hac vice in the United States

District Court, Southern District of New York, declares under penalty of perjury:

1. I am counsel for Defendants herein, and am fully familiar with the pleadings and proceedings heretofore had herein.
2. I am a member of the Herbert Law Group, LLC, with a primary focus on labor and employment law.
3. After being retained to provide defense counsel, I filed a Motion to Appear Pro Hac vice, which was granted.
4. The initial Complaint in this matter was filed on or about August 4, 2017.
5. The first Amended Complaint was filed August 24, 2017.

6. Service on the Defendants was completed on August 29, 2017, September 6, 2017, and September 7, 2017.
7. Plaintiffs' filed their Second Amended Complaint on or about September 18, 2017.
8. Defendants' filed their Answer on or about October 26, 2017.
9. The parties engaged in two (2) mediation sessions, on November 21, 2017, and December 19, 2017, which were unsuccessful.
10. On or about February 23, 2018, Plaintiffs requested that the Court move the action forward with litigation.
11. A Third Amended Complaint was filed on or about June 5, 2018.
12. During the discovery stage, Plaintiffs propounded similar responses and documents to Defendants' discovery requests, and Plaintiffs served on all named Defendants one set of Interrogatories and Requests for Production. Defendants propounded one set of responses and documents – records which were produced in subparts, organized by restaurant, Plaintiff and type of document.
13. Numerous attempts were made by Defendants to settle this matter, even after Plaintiffs disregarded settlement negotiations.
 - a. On or about December 7, 2018, I sent correspondence to Plaintiffs' counsel, requesting a settlement demand for each Plaintiff. The reply from counsel indicated that Plaintiffs have not agreed to make any settlement demand to Defendants. (Attached hereto as Exhibit A is a true and accurate copy of Defense counsel emails with Plaintiffs' counsel, dated December 7, 2018).
 - b. On or about July 30, 2019, I sent correspondence to Plaintiffs' counsel, suggesting the parties work together to reach a fair disposition of this matter.

Once again, I was informed that Plaintiffs wanted to go to trial and would not agree to a settlement conference. (Attached hereto as Exhibit B is a true and accurate copy of Defense counsel emails with Plaintiffs' counsel, dated July 30, 2019).

14. While I alone represented Defendants during each conference call with the Court leading up to trial, including the Final Pre-Trial Conference on May 11, 2020, Plaintiffs were represented by no less than four (4) attorneys.

I declare under penalty of perjury that the foregoing is true and correct

Executed on August 13, 2020.

/s/John T. Herbert

John T. Herbert, Esq.
Herbert Law Group, LLC
96 Engle Street
Englewood, NJ 07631
Office: (201) 490-4070
Attorneys for Defendants.